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# Citizen Inputs and Influence in Mexico City's Constitution-Making

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Ernesto Cruz Ruiz

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## **Abstract**

This paper focuses on citizen participation in the 2016 Mexico City's constitution-making and examines the extent to which citizens contributed and influenced its making, adoption and enactment. It classifies actors in three different types according to the stage in which they joined the process and posits that first level actors open constitution-making to second and third level actors due to specific political circumstances shaping their preferences and strategies vis-à-vis the process. This paper claims that the need to legitimize and inform the constitution drove first level actors to open the process to second and third level actors, who used those opportunities due to the accessibility of the mechanisms implemented to funnel and manage their inputs. In sum, this paper contends that citizen participation influences and informs constitution-making positively, as long as first level actors open the process to diverse stakeholders, properly manage the process and have clear objectives for citizen contributions.

## **Keywords**

democratic innovations, constitution-making, underrepresented groups

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## Introduction

Most analyses on constitution-making focus on the national level, study their process design (Elster, 2012), analyze crowdsourced methods to increase inputs (Landemore, 2015; Gherghina and Misoiu, 2016), examine the survival of constitutions (Elkins et al., 2009), compare cases at the national level (Ginsburg, 2012; Ginsburg et al., 2009), etcetera. This paper, on the contrary, seeks to advance knowledge about crafting constitutions by focusing on the subnational level and on actors' roles in the process, their motivations and strategies to open such process to a wide variety of stakeholders. Specifically, this paper examines the case of actors opening the process to all-affected interests, its implications and the opportunities arising from that contribution. Furthermore, this paper examines the background motivations of actors choosing to open or keep closed a constitution-making and why citizens, as stakeholders and affected by the process, opt to participate and influence the procedure.

Then, this paper features the making of Mexico City constitution that entered into force in September 2018 and approaches in more detail its drafting and amendment that officially started in 2016 and lasted for about one year. This paper questions actors' motivations to open such a process and the circumstances shaping those choices. Hence, this paper examines the reasons behind actors opening the process to various stakeholders and how they managed and included diverse inputs in the constitutional text. Besides, it describes the antecedents, temporality and conditions under which actors offered citizens opportunities to participate in constitution-making. In addition, this paper investigates the influence of diverse stakeholder participation in the procedure by examining the stages of input, throughput and output. In sum, the paper questions and investigates actors' reasons to open constitution-making, offer opportunities for partaking, the mechanisms to manage inputs and citizen participation influence in constitution-making.

On these grounds, the paper describes actors' roles and circumstances shaping their decisions to boost stakeholder participation and all-affected interests in constitution-making. The article emphasizes actor's role due to their decision power and control over the process. This paper underlines the circumstances surrounding the process since the actor's political initiative and power would fail if they were in dissonance with the political context at the time. Furthermore, the mechanisms implemented during the constitution-making are described to highlight the inclusion of diverse stakeholders, particularly underrepresented groups in the drafting and amendment of the constitution.

In what follows, this paper presents the central debates about the importance of citizen participation in democratic processes and especially in constitution-making. Then, the following sections highlight the role of the actors involved in this constitution-making, describes the set of circumstances surrounding the process and give more details about the context in which the process took place, which enabled and enhanced participation in the procedure. The subsequent section describes the mechanisms boosting participation, focusing on the drafting period of Mexico City's constitution and the work of the Constituent Assembly. The last two sections observe the contributions of citizens to the constitutional text, specifically, the paper describes the legitimacy of the constitution-making through the stages of input, throughput and output, and evaluates how informed and legitimate was this constitution-making. This paper concludes summarizing the main contributions of Mexico City constitution-making to the literature of constitution-making in general.

### **Citizen Participation in Democracy and Constitution-Making**

Constitution-making benefits from more involvement of stakeholders and more deliberative practices. For instance, increasing participation in collective decisions increases its legitimacy since principles of equality maintain that anyone affected by it must have the opportunity to have a say on its outcome (Dahl, 1985). In more general terms, other arguments suggest that citizens' partaking in decision-making improve the quality of democracy (Morlino, 2012) or that such involvement can have some educative effects for the partakers (Pateman, 1970). Overall, these perspectives signal a shift in citizen attitudes and argue in favor of a more active role of citizens for the benefit of better decision making (Chambers, 2003; Dryzek, 2002; Elstub, 2018; Habermas, 1996). For the case of constitution-making, these procedural terms focus on the mechanisms of constitution-making and suggest the stages in which citizen participation could enhance the legitimacy, the deliberation of the process (Elster, 1995; Elster, 2012; Elster, 1998) or increase the epistemic quality of democratic decision-making (Landemore and Elster, 2012).

Another perspective argues for not merely aggregative participation but stressed the importance of integrating into decision making participation of quality by emphasizing the contributions of deliberations and widening the diversity of perspectives (Bohman, 2006). This procedural approach has encompassed characteristics of the deliberations such as considered judgment and inclusion of underrepresented stakeholders (Bächtiger et al., 2018), and it has contributed with models and devices to achieve deliberations such as deliberative polls (Luskin et al., 2002). Additionally, deliberation in constitution-making has positive effects in the levels of

democracy (Eisenstadt et al., 2017), and the focus has shifted from a primary interest in deliberations in the constituent assemblies (Elster, 1998; Elster, 2012) to deliberations including citizens (Fishkin, 2011; Reuchamps and Suiter, 2016).

Both perspectives, when confronted with efficiency tests, crumble with issues of coordination as the number of participants increases. The efficiency issues derived from enhanced citizen participation or due to big democratic units are relevant to democratic procedures, especially for informed decision-making or achieving more democratic values (Tucker, 1980; Dahl, 1998; Fishkin, 2011; Dahl, 1967). However, if opportunities for participation are offered, the means to funnel citizen needs and wants are essential to assure that citizen inputs are adequately managed and used in the constitution-making. The latter makes it easy for citizens to observe their actual contribution in the final version of a constitution and underlines the importance of proper management of citizen inputs towards achieving an informed constitution and the success of the process. In this regard, technology can contribute to the constitution-making by enhancing its efficiency, as it was shown in the constitution-making of Iceland (Ingimundarson et al., 2016; Elster, 2016; Landemore, 2015) or the Romanian constitutional reform attempt of 2013 (Gherghina and Miscoiu, 2016). However, as the Icelandic or the Romanian case confirms, regardless of the democratic size, or political context, the correct implementation of technology does not secure that a constitution gets written.

Subsequently, this paper gauges citizen participation from a legitimacy perspective to pinpoint citizen influence in constitution-making using a similar analytical framework as the one used in the 2013 Romanian constitutional reform (Gherghina and Miscoiu, 2016) or in the constitutional deliberative democracy in Europe (Reuchamps and Suiter, 2016). Both analyses draw on the pivotal analytical framework<sup>1</sup> on input, throughput and output legitimacy to scrutinize constitutional reforms. The threefold approach highlights the need for decision-making or constitution-making processes to be responsive and effective according to citizen needs and demands while keeping an open, transparent, efficacious and inclusive process. On these grounds, this paper sheds light on the extent to which citizen participation played a central role in the constitution-writing of Mexico City, highlighting its inclusiveness, the utility of the constitution for problem-solving, and according to the whole process, its transparency,

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<sup>1</sup> The pivotal analytical frameworks are based on the following authors (just to name a few): Easton (1965) *A Systems Analysis of Political Life*. Scharpf (1999) *Governing in Europe. Effective and Democratic?* Schmidt (2013) *Democracy and legitimacy in the European Union revisited: input, output and “throughput”*.

accountability and reliability. Finally, while this paper displays the case of the constitution-making of Mexico City as an example of the extended role of citizens in traditional activities of modern democracies, the means used to include citizen views and demands in democratic processes, this paper also highlights the role of political actors as 'bouncers' granting access to a process like a constitution-making.

### **Actors Partaking in Constitution-Making**

The potential benefits of enhanced participation in constitution-making are legitimization and information enrichment, coincidental with the increasing emphasis on the significance of citizen participation in democratic processes and modern democracies described above. Thus, this section enumerates the types of actors and degrees of intervention in the constitution-making of Mexico City. To the greatest extent, three levels of actors participated in the crafting of the Constitution of Mexico City. The classification serves the identification of the prevailing partakers in the crafting of this constitution solely and corresponds chiefly to the stage in which they joined the process. Therefore, the first level actors are the President of Mexico, Enrique Peña Nieto (in office 1 December 2012 – 30 November 2018), the Mayor of Mexico City, Miguel Ángel Mancera Espinosa (in office 5 December 2012 – 29 March 2018) and officials working for the legislative powers at the national and local level (Government of Mexico City). Besides, second level actors are Civil Society Organizations (CSOs), and the third level includes all individual participants that took part in any of the processes to collect input for this constitution. The role of such actors varies; for example, first level actors opened the constitution-making, third level actors contributed particularly to making an informed constitution and second level actors enabled the coordination between the first and the third level actors.

Therefore, this article contends that the role of first level actors was indispensable to make the process participatory, deliberative and inclusive. For instance, this constitution-making started in 2013 when Mexico City Mayor delivered the political reform initiative of Mexico City to the Congress of the Union. Since then, he started consulting with citizens and diverse stakeholders the content of the new constitution. Additionally, other first level actors like the presidents of the leading Mexican political parties<sup>2</sup> and the President of Mexico, propitiated this

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<sup>2</sup> At the time, the main political parties in Mexico were the Institutional Revolutionary Party (Spanish: Partido Revolucionario Institucional, PRI), the National Action Party (Spanish: Partido Acción Nacional, PAN) and the Party of the Democratic Revolution (Spanish: Partido de la Revolución Democrática, PRD).

constitution-making, as they signed in 2012 the 'Pacto por México' (2013)<sup>3</sup>, a consensual political agreement to legislate about the political reform of Mexico City and other political matters in halt during several years due to lack of legislative consensus (Gobierno de la Ciudad de México, 2016b). Consequently, the 'Pacto por México' formalized the collaboration of first-level actors and empowered the Mayor of Mexico City to open and legitimate constitution-making by involving citizens, politicians, underrepresented groups and CSOs into crafting an informed and long-lasting constitution (ASJ, 2013; Romero Sánchez and Bolaños Sánchez, 2013; Gobierno de la Ciudad de México, 2016d). Furthermore, the smooth collaboration of first level actors emerged out of a national context of renewed democratization (RRG, 2018), probably because of the PRI came back to the presidency after being 12 years out of office<sup>4</sup>.

Later, first level actors conceded their leading role to second level actors during the drafting of the constitution by creating a couple of groups to draft the constitutional texts. During this stage, CSOs and representatives of interest groups like business people and academia gathered inputs on the content of the constitution and raised awareness of the process. This participation was beneficial to later stages of the process since some of the invited CSOs belonged to underrepresented groups in Mexico City and the country, e.g., indigenous people. This stage allowed citizens and all-interested to shape the agenda of the process, which was particularly exciting and vital for underrepresented groups and minorities. Summing up, this first opening of the process benefited in participatory and legitimacy terms later stages of the writing of the constitution by publicizing the open process and the political will to make the process inclusive, participatory and deliberative.

Finally, the third-level actors were more dynamic in the later stages of the process, probably because the first-level actors established a set of rules to funnel their participation, and second-level actors coordinated the process. An example of those rules was the instruments to gather, process and make the most out of citizen inputs. For instance, first-level actors propitiated and implemented rules to make citizen inputs significant to the process of constitution-making and its content. Specifically, it was during the drafting period that actors embraced technology to collect and to process citizen' inputs for the constitutional text and to legitimate the draft to be discussed and amended by the Constituent Assembly. Actors adopted

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<sup>3</sup> The pact included Mexico City's political reform among other 95 political agreements.

<sup>4</sup> The PRI ruled Mexico from 1921 to 2000 holding not only the Mexican Presidency, but many state governorships and seats at the federal and state legislatures.



not only technological but also more conventional means such as surveys and stands located in different points in the city to enable citizen participation and not only have the participation of CSOs.

### **Conditions Under Which Inclusion is Engendered**

The leading role of first level actors in Mexico City's constitution-making was fundamental to open and making this democratic process more inclusive and deliberative. Besides, since the circumstances when the constitution of Mexico City took place were unique, this section details in a sequential manner the detailed and salient setting that were in place as first-level actors opened the democratic process to citizen participation and how they contributed to inform the content and constitution-making. This section, therefore, describes the preceding context to the circumstances at the time when the constitution-writing was to start.

To begin with, former political and economic transformations accrued at least in the three decades preceding the writing of Mexico City's constitution. First, the political realm of Mexico City changed since citizens demanded more political rights because the political organization of Mexico City's territory was a federal district dependent on the Federal Mexican Government. In the past, citizens could not vote for their political leaders because the federal authorities appointed them. However, once the federal government, reactive to citizen demands, changed that at the end of the 1980s, citizens did otherwise. They chose openly innovative over traditional governments, meaning opposition parties, less akin to the PRI political agenda. In the same sense, economic factors enabled a healthy and tertiary economy in the capital city, which mainly were the result of the national dynamization of the economy that occurred during the second half of the twentieth century. If the country changed economically and politically in the twentieth century, Mexico City led that development. Lastly, in the Mexican context, when it comes to citizen participation, Mexico City is a unique case and with a long history since its citizens have embraced social activism, political, and public participation for long. The open constitution-making exemplifies how important it is for first-level actors to listen to politically engaged citizens.

Finally, the accrued circumstances, present as the constitution-making took place, crystallized in the 'Pacto por México.' Mexico City constitution-making reaped the benefits of the pact because of an active citizenry, a stable economy, strong opposition parties and because the PRI aimed to rebrand itself. This pact enabled the crafting of this constitution because it symbolized democratic maturity and, more specifically, national political coordination to make

agreements between different levels of government and among ideologically separated political parties. Besides, this constitution-making used technological means to enhance citizen inputs to make the process open and transparent. Even though Mexico City had available and up-to-date infrastructure that was used for the drafting and approval of the constitution, it is disputable that technology availability was sufficient reason to use such a tool in the constitution-making. Furthermore, on the economic side, the Mexican Capital is and was at the time the main contributor to the national gross domestic product (GDP), its economy is dynamic, and wealth is more evenly distributed than in the other Mexican States.

### **The Context of Mexico City's Constitution-making**

Actor decisions and choices were affected by the timing of this constitution-making. While the matter was not urgent, it became a priority due to the saliency of the political circumstances present in the country and the capital at the time. The Federal Mexican Government change of preferences was preserved in the 'Pacto por México' (2013) and evident by looking at the number of previous and failed attempts of Mexico City Government to reform the political organization of its territory (Gobierno de la Ciudad de México, 2016b). In general, the return of the PRI to the Mexican presidency was the main reason as to why the political reform of Mexico City was accepted and why citizen participation was enhanced. Once again in power, the preference of the PRI was to increase its legitimacy and its strategy was to build consensus because the circumstances were not favorable for this party after 12 years of having lost the presidential office to the PAN. In 2012 the PRI was back in the Mexican presidency but had a minority in the legislatures, the general elections were contested, and public opinion was not favorable for the party. In sum, the PRI had to negotiate with the opposition to govern and the 'Pacto por México' was created.

Moreover, studies on constitution-making at the national level argue that the crafting of constitutions takes place in moments of crisis (Elster, 1995). For instance, although with no crafted constitution, the Icelandic constitution-making did take place after the financial crisis of 2008 (Landemore, 2015). Another example, the Romanian attempt to reform their constitutions in 2013, although it did not achieve its goal, it was predicated on diverse political conflicts such as presidential impeachments (Gherghina and Miscoiu, 2016). For the case of Mexico City, social movements and other political related events preceded the writing of its constitution. Nevertheless, those events took place in a scenery where the Mexican presidential regime flaunted political, economic, and military power in the Mexican territory, with no preference, at

least from a purely observational point of view, for regime change in the Mexican capital. Yet, that federal power started to dilute as tragic events in 1968 and 1971, related to student movements, triggered political reforms to foster political pluralism and more civic participation. Other events, such as the 1985 Mexico City earthquake, contributed as well to that detriment by showing the failure of the Federal Government to react fittingly and efficiently to humanitarian catastrophes in Mexico City. In the instances mentioned before, events arguably prompted citizens to be more critical of the federal government, and demand more civil liberties. Besides, CSOs and opposition parties made those claims part of their political agenda as well.

Moreover, the Federal Government changed its preferences towards the capital after coming back to power, probably, due to a preference to uphold political support and gain political legitimacy, result of very competitive national elections. In particular, the restricted power of the PRI when returning to power made it change preferences, set strategies, and therefore negotiate with other political parties to put their agenda further. This change in the variable '*political power*' at the national level affected the relationship with the local governments. Subsequently, the local government of Mexico City profited from this scheme and put forward its agenda of political reform, which had precedents that failed in the past. Altogether, the PRI return to power in 2012 produced a change in the preferences of the actors involved in the political reform of Mexico City. Simultaneously, the decision to reform the Federal District strengthened the power position of the local government over the federal government and the former benefited from this situation and opened the process further.

Lastly, this section aimed to simplify the complexity of the context in which Mexico City constitution-making process in 2012 started. It drafted the reasons behind the opportunities to participate in the democratic process and influence the constitutional text. This contextualization accentuated the saliency of the political circumstances to explain participation and openness of Mexico City's constitution-making. Finally, after focusing on the last sections about the actors, circumstances and context, in the next two sections, this paper approaches the actual constitution-making. The paper portrays the drafting and the amendment-approval of the constitution and describes the instruments and citizen inputs in both moments.

### **The Drafting and Approving of Mexico City's Constitution**

This section describes the mechanisms used during the making and approval of the Constitution of Mexico City. The crafting started unofficially in 2013 right after Miguel Angel Mancera Espinosa presented to the Congress of the Union Mexico City's Political Reform Initiative (Gobierno de la

Ciudad de México, 2016d). Since then, for more than three years and before the official draft of the constitution, broad consultation, participation and deliberation occurred during 500 meetings held with societal organizations like trade unions, business associations, indigenous peoples, human rights activists, international institutions, etcetera, to collect ideas to be included in the soon to be written constitution (Gobierno de la Ciudad de México, 2017).

In January 2016, the Congress of the Union approved Mexico City's political reform, whose process design did not include participatory mechanisms, and it granted to Mexico City Mayor exclusivity in drafting the manuscript. However, the Mayor opened the process to craft a deliberative, participative and informed draft constitution to be sent later to the Constituent Assembly for its discussion, amendment and approval (Laboratorio para la Ciudad, 2018). To that aim, in February 2016, the Mayor formed a Working Group to elaborate a draft constitution based on citizens' inputs, and an Advisory Group to supervise the former. Both groups consisted of representatives from civil society, academia, and specialists and their goal was to gather opinions and proposals of citizens and social organizations of Mexico City to craft an informed constitution (Laboratorio para la Ciudad, 2018).

The drafting process was participative, deliberative, and inclusive in the 23 plenary sessions of the Working Group and the 500 meetings before the drafting period with various stakeholders representing minorities and CSOs (Gobierno de la Ciudad de México, 2016d). Furthermore, the Mayor of Mexico City instructed the 'Laboratorio para la Ciudad' (LabCDMX), the Mexico City's government department of civic and urban innovation, and the Legal Department of Mexico City's Government, to support the Working Group to increase citizen inputs and deliberations to the draft constitution. Their strategy lastly translated in the use of internet platforms and a survey (Laboratorio para la Ciudad, 2018), grouped and hosted on the website 'ConstituciónCDMX, 'plus 300 mobile stands to approach citizens with limited or no access to the internet (Gobierno de la Ciudad de México, 2016c).

In general, 'ConstituciónCDMX 'enabled different instruments to engage citizens, concentrate their ideas through participation and deliberation, to later including them in the draft Constitution (Gobierno de la Ciudad de México, 2016a). The instruments were a writing platform, an online petition system, a massive survey, and a website to post information about citizen meetings and the results of their deliberations. More specifically, to funnel citizen inputs in the constitutional draft, in partnership with the MIT Media Lab, LabCDMX employed the collaborative writing platform 'PubPub 'to host Working Group proposals, on which citizens could comment. Besides, to receive and manage citizen petitions, LabCDMX collaborated with

Change.org to receive citizen proposals on the constitution content. In addition, LabCDMX fostered open participation via a survey available online and offline. Lastly, citizens could publish on 'ConstituciónCDMX' information on events about the constitution-making organized by themselves, with the purpose to enhance further participation and to publish the results of their deliberations. Furthermore, the varied instruments and design successfully included minorities and underrepresented groups in Mexican politics (Laboratorio para la Ciudad, 2018). Finally, one hallmark of the drafting stage and the entire constitution-making was that 12 proposals collected via Change.org<sup>5</sup>, with more than ten thousand signatures of support, were included in the final constitutional text (Cities of Service, 2018).

Furthermore, regarding the constitution approval, in September 2016, the Working Group delivered the drafted constitution to the Constituent Assembly of Mexico City, responsible for amending and approving it. One hundred members formed the assembly, sixty of which were voted by citizens and forty appointed by the President of the Republic (six), Chamber of Deputies (fourteen), Senate (fourteen), and Mexico City Mayor (six) (Secretaría de Gobernación, 2016a). The assembly's work comprised, among others, the discussion, and deliberation of 544 initiatives of deputies and constituent deputies, 978 citizen proposals, and mechanisms to hold public hearings, the audience of more than ten thousand people, and one consultation with indigenous peoples (Gobierno de la Ciudad de México, 2017). Besides, the Assembly debated in plenary sessions and on Working Commissions the citizen proposals from the drafting period. The Assembly's 'Open Parliament' regulation, which included principles of transparency, publicity, and access to information, permitted citizens and social organizations to be received and heard in the Constituent Assembly; besides, info points strategically located in the city, contributed to further the discussion, amendment, and approval of the constitution of the city (Secretaría de Gobernación, 2016b; Nava Polina, 2018).

Furthermore, the assembly adopted transparency measures like the creation of a website where transcripts of the debates and records were available to citizens and everyone interested (Cámara de Diputados del H. Congreso de la Unión, 2016). In general, citizen contributions to the draft constitution and the Constituent Assembly influenced not only the work of the appointed members of the Working Group, Advisory Group, but also the activities of the Constituent Assembly. The diversity of citizen contributions was such that the debates of the Constituent

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<sup>5</sup> The proposals were about transparency, accountability, anti-corruption, smart city development, animal rights, green city initiatives, sustainable mobility, digital rights, and free and universal internet access, inclusiveness, women's rights, and LGBTI rights.

Assembly's members of different political parties oscillated on topics such as the consolidation of participatory democracy, market regulation, poverty, inequality, etcetera (Encinas Rodríguez, 2017). Lastly, the Constituent Assembly finished its task in January 2017, and the new constitution entered into force in September 2018.

### **The Legitimacy of the Process**

The last sections depicted the circumstances and the context under which first-level actors decided to increase participation in constitution-making to craft a participatory, deliberative, inclusive and informed constitution. Along the same lines, previous sections described how the same actors opened channels of participation and how they used technology to increase the efficiency in the funneling and management of citizen inputs. Finally, by showing the use of participation opportunities, the earlier sections pointed to when in constitution-making and in which part of the constitution citizens exercised influence.

Furthermore, those sections pointed to questions about the reasons, preferences and strategies of first-level actor decisions to open the process to second and third level actors, why the latter would use those opportunities for partaking, and the extent to which second and third level actors influenced the constitution-making and the constitutional text. The questions are crucial since once the constitution-making is open to broad participation, mismanagement could hinder its crafting and the time allotted to it. If participation were mishandled or ignored, the process and the constitution would be delegitimized, and for the case of citizens, they would be disenfranchised. Therefore, for the case of a regional constitution, taking into account that there was no external pressure or crisis as it would be a war or an independence movement as in national constitutions, this paper hypothesizes that (H1) first level actors offer opportunities for participation when they pursue to make an informed constitution, and if so, (H2) second and third level actors influence the process by funneling their wants and needs by the means offered. Besides, (H3) first level actors offer opportunities for participation when they pursue to legitimate a constitution, and if so, (H4) second and third level actors influence the process by increasing their participation in the process. As well, given the complexity of the constitution-making and future implications of the constitutional text, it is hypothesized that (H5) if opportunities to participate in a constitution-making are available, second and third level actors make use of those opportunities when they are accessible and easy to use.

In sum, the general implications of the last hypotheses are that first-level actors with preferences in legitimizing and crafting an informed constitution are more prone to open

constitution-making to a wider variety of stakeholders, including citizens and underrepresented groups. Consequently, when those actors are committed to enhancing citizen participation and underrepresented groups in constitution-making, they incorporate deliberative, participatory and technological tools to increase the efficiency of input gathering, processing and transparency of the process, thus, creating a favorable environment for citizens to voice and influence democratic processes. On these grounds, the paper gauges in the following sections the legitimacy of the process to test the hypotheses. To that end, the paper uses the input, throughput, output legitimacy framework to show whether or not mismanagement was absent and to pinpoint citizen influence in constitution-making highlighting features like effectiveness, openness, transparency, efficaciousness, inclusiveness and responsiveness to citizen requests and demands (Gherghina and Miscoiu, 2016; Suiter and Reuchamps, 2016). Finally, it uses Geissel and Gherghina (2016) analysis design for gauging the extent to which the process was innovative and indicate if process design was altered or not during the process, which is helpful to highlight the ex-ante and ex-post conditions of the process.

### *Input*

Inclusion and representation are crucial factors during the input stage in constitution-making to inform the entire process and set the agenda (Gherghina and Miscoiu, 2016; Geissel and Gherghina, 2016). The decision to open this stage is particularly relevant for a democratic unit the size of Mexico City, which according to an official Mexican census in 2017, approximately 21 million inhabitants lived within the blurred geographic limits of the Mexican Capital<sup>6</sup>. This fact is relevant when deciding whether to include all-subjected or all-affected interests by the process (Näsström, 2011; Miklosi, 2012) due to input management and creation of channels to funnel that amount of inputs.

That broad inclusion was implicitly counted in first level actor's goal to make an informed constitution. Hence, the input phase was open to all-affected interests and had the necessary mechanisms to deal with a potentially enormous amount of second and third level actor inputs and deliberations. The inclusion was a primary concern for Mexico City Mayor and the drafting

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<sup>6</sup> The 21 million inhabitants correspond to the metropolitan area of Mexico City. The actual population, registered and living solely in the territorial demarcation of Mexico City, was in 2015 around 9 million people. The metropolitan area account is relevant in governance terms due to the coordination needs with other Mexican states in all related matters to high mobility of population within this area, and among others, the limited resources that must be shared among different political entities.

period ended up being uncluttered to all kinds of participants. The *ex-ante* closed process was opened to a broad range of participants, including non-self-selected participants, underrepresented groups and minorities. *Ex-post*, first-level actors designed a process that allowed input reception, discussion, and deliberation among all the affected by the process to get the opportunity to voice complaints and shape the legislation. As described in the preceding sections, the process profited from offline and online means.

Furthermore, the open agenda features and inclusiveness in the input stage of this constitution-making were beneficial for the entire process since the writing of this constitution was not a pressing matter in the political and legislative agenda of Mexico City or the country. The procedure did not take place in a crisis moment, which might have highlighted the urgency of the process, as observed by Elster for national constitutions (1995). Moreover, the lack of urgency is echoed in the push of first-level actors in Mexico City for this reform, which was rejected previously in at least in 9 different administrations of the City (Gobierno de la Ciudad de México, 2016b). In general, it seems that opening this constitution-making, in light of no social push for political reform, was beneficial to legitimate the process, although there were other reasons like the 'Pacto por México' with similar effects.

In sum, the apparent lack of bottom-up demands for political reform of Mexico City was a reason shaping the preferences of first level actors to make the process deliberative and inclusive. To that aim, they needed to secure the representation of minorities to avoid, for instance, self-selection. They finally managed to create a procedural design to include the representation of different groups, including minorities and underrepresented groups. In the end, the Mayor of Mexico City formed the Working Group and the Advisory Group with representatives of different social spheres, to secure inclusiveness and representation. He gave them the task to increase representation by including underrepresented and minority groups. In other words, first-level actors allowed all-affected interests, for example, business people, citizens, no professional politicians, etcetera, to set the agenda to be discussed later in the Constituent Assembly, and by doing that citizens informed and legitimized the draft constitution.

### *Throughput*

The throughput shall be transparent, deliberative, open for participation, have rules and ideally facilitators (Gherghina and Misoiu, 2016; Geissel and Gherghina, 2016). About the Mexico City case, the Mexican Congress of the Union approved the political reform of Mexico City and set the working rules of the Constituent Assembly (Secretaría de Gobernación, 2016b). Previously,



rules proved to be needed and useful during the drafting process as Mexico City Mayor opened the process and employed offhand rules to control the online and offline mechanisms to facilitate the inclusion of second and third level actor inputs. As depicted in previous sections, both sets of rules structured the drafting period and the Constituent Assembly.

The 'how' in the throughput phase was essential for the entire process because the assembly work was based on an openly drafted constitution and because the Congress of the Union meticulously designed the rules. Therefore, the Assembly worked under the principle of 'open parliament,' which, among others, stipulated principles of transparency and access to information. Most importantly, the regulation permitted all-interested to speak in front of the Assembly to present proposals and participate in the deliberations. Moreover, the Constituent Assembly deployed an info point in the city center, it held public hearings, and it consulted with indigenous peoples the content of the constitution, which enhanced participation and deliberation (Nava Polina, 2018). The Assembly's rule was that not only the constituent deputies were to deliberate in the process but second and third level actors as well. Thus, all-interested had the opportunity to participate, beyond the drafting period to improve the collected inputs by the Working Group. Besides, during the Constituent Assembly, citizens could interact with constituent deputies in sessions and commissions under rules of mutual respect (Secretaría de Gobernación, 2016b). Finally, the Assembly fostered transparency, among others, by video-recording and live-streaming its sessions.

In sum, first level actors favored participation and deliberation in the throughput phase as well, which was required due to the collected inputs in the drafting period representing all-affected interests. That the drafted constitution was inclusive, participative, and deliberative was arguably owed to the Mayor of the City, who indirectly influenced with that openness the throughput phase since the drafted constitution was the agenda to be discussed in the Constituent Assembly. Finally, it was the Congress of the Union, the first-level actor that set the rules governing the Constituent Assembly by setting the rules to vote members of the Constituent Assembly, the starting and ending dates of the Constituent Assembly work, and the deadline to approve the constitution (Secretaría de Gobernación, 2016a).

### Output

The legitimacy evaluation of this stage focuses on the visibility of the process, perceived legitimacy, and the institutionalized and real impact of participation on the constitution (Gherghina and Miscoiu, 2016; Geissel and Gherghina, 2016). Hence, preceding sections in this

article pointed to the open agenda-setting of this constitution-making, the extent to which citizens used offered opportunities to participate, and how online and offline platforms contributed to the proper management of those inputs. Still, how were the results perceived by participants and others not participating in the process?

For instance, a survey by *El Financiero* (Moreno, 2017) shows that the constitution-making of Mexico was a well-promoted process since eight out of ten interviewees learned that Mexico City already had its constitution. However, the same survey identifies that most of the citizens of the city cast doubt about its usefulness. Besides, even at the beginning of the activities of the Constituent Assembly (Parametria, 2016), the writing of the new constitution was not an unknown topic to the citizens of Mexico City. For instance, Mexico City citizens knew about the change of name from the Federal District to Mexico City, as well as the elected Constituent Assembly. They even had divided opinions about the integration and the number of voted members to the constituent assembly.

According to those polls, Mexico City constitution-making was a topic about which citizens knew, possibly because of the drafting period, the massive surveys and because of the Constituent Assembly, due to the principle of 'open parliament,' live-streamed its debates and plenary sessions. However, although citizens knew about the process, their opinions were not optimistic about the usefulness of the crafted document. Those bleak arguments might not be related to the process and they might be a reflection of citizen disaffection with politics or lack of government responsiveness to citizens' demands at the time when the process took place. Though, even under those circumstances, international organizations regarded the constitution as a document that addresses central challenges such as development, peace, and human rights, e.g., the Economic Commission for Latin America and the Caribbean (Sánchez Cordero, 2018). The latter remark echoes underrepresented groups' inclusion in the constitution-making and their contributions to the constitutional text. Additionally, the regulatory frameworks ruling the drafting period and Constituent Assembly fostered communication among actors participating in those two institutions and the broad public. First-level actors allowed two-way communication between themselves and also engaged other actors that foster further communication among all-affected and all-interested actors to inform the constitutional text and to legitimize the process by making it more inclusive.

Finally, the impact of citizen participation was institutionalized as first level actors opened and set the regulatory framework throughout the process to funnel citizens' inputs in the constitution-writing of Mexico City. The real impact of those contributions reflected on the final

result, since 85% of the contents of the drafted constitution made it to the final text (Laboratorio para la Ciudad, 2018). Additionally, second and third level actor's involvement in this constitution-making was decisive in making Mexico City's constitution legitimate and informed due to their participation and contributions. Ex-ante, the drafting procedure was conceived as a closed process, but it was opened to diverse stakeholder participation to increase the epistemic and cognitive benefits of participation and deliberation, and the openness continued during the work of the Constituent Assembly.

### **An Informed and Legitimate Constitution**

This paper questioned and depicted in the last sections, the context and conditions under which first level actors open the constitution-making of Mexico City to citizen participation and other underrepresented groups in the Mexican Capital. The threefold analysis of the last section showed how the process was legitimized and consequently created an informed constitutional text. The description of the constitution-making helped to reveal the preferences of first level actors to open the process and adequately manage citizens' inputs. Besides, after the input, throughput and output analysis, sufficient evidence was gathered not to reject the hypotheses elaborated in this paper and to sustain that the conjunction of context and circumstances influenced first level actors' preferences to offer opportunities for participation as they pursued to craft an informed (H1) and legitimate constitution (H3). Furthermore, second and third level actors used those opportunities and consequently influenced the text through the funneling of their needs and wants (H2) and increasing their participation (H4). Besides, first level actors favored that participation by making the process and the content of the constitution accessible to the stakeholders involved in the process (H5).

Regarding the epistemic contributions, the process design was improved to avoid a closed decision-making process, one in which the power of elites or a group of individuals displaces minorities and undermines the benefits of a cognitive diversity achieved by inclusiveness. The process arguably profited from the complementarity of the participatory and deliberative democratic practices. For instance, by making the process more participatory, a wider diversity of perspectives was gathered. Furthermore, by making a compromise in the rules of the drafting period and the constituent assembly towards the deliberation of citizen inputs, Mexico City's constitution-making was informed. These deliberative and participatory features of Mexico City's constitution-making pinpoint the shift from standard to a more active citizenry.

Finally, as enunciated before, mismanagement of citizens' inputs, regardless of the complexity or lack of time and funds, could have affected the legitimacy and the epistemic quality of the constitutional text negatively. However, those risks were avoided by using technology during the funneling and management of citizens' inputs to the process. Furthermore, research on citizen inclusion in democratic practices argues in favor of collective wisdom, contending that a group of minds around a problem may find better solutions than just a single one or a few (Landemore and Elster, 2012). Mexico City's constitution-making showed citizen participation contributions to agenda-setting and the extent to which technology increased legitimacy through inclusion. Mexico City's constitution-making is an example of a decision-making process, whereby the many, rather than the few, crafted and enacted a constitution. In sum, boosted inclusiveness was essential in this constitution-making to legitimate the process and to achieve an informed constitutional text.

## Conclusions

It was shown in the paper that broad stakeholder participation and the inclusion of underrepresented groups in constitution-making is dependent on the opportunities created by first level actors managing it. In the same vein, actors' motivations to open such democratic processes are conditioned to the circumstances surrounding the process, for instance, the urgency of the democratic process or adjacent political circumstances. The paper exhibited the effects of the accumulated circumstances surrounding Mexican politics when the constitution-making was to take place and how they changed actors' preferences towards the political reform of Mexico City. Furthermore, the paper argued that the opening of the process was dependent on first-level actors' need for legitimizing the process and the extent to which such participation could contribute to making an informed constitution. As the case showed, citizens used those opportunities to funnel their needs and wants, increased their participation, and consequently influenced the process. Lastly, citizens could participate in the process because opportunities to participate were innovative and accessible due to the employment of technological means.

Furthermore, Mexico City's case displayed the importance of process design in regulating the intensity and type of participation at different stages of constitution-making, and positive contributions to the efficiency in handling, funneling and systematizing citizens' inputs to avoid mismanagement. In this vein, the process showed that the rules governing the process had effects on the relations among actors and how the process was managed for the benefit of making an informed constitution, increasing deliberations and most importantly inclusion.

However, the Mexico City case exhibited first level actor importance in democratizing the process even more. For instance, first level actor's decisions to open the ex-ante Mexico City's closed constitution-making boosted citizen participation allowing citizen's influence in the drafting process and framed the discussions and work of the Constituent Assembly.

Furthermore, this paper showed how citizen participation impacted Mexico City's constitutional text and exemplified how this subnational democratic process was, to a certain extent, successfully managed. The analysis of this subnational case enhances the understanding of process design and democratic innovations by stressing the importance of actors, circumstances and context. For instance, the inclusion of those three elements in replicability analyses of democratic innovations or the inclusion of underrepresented groups in democratic process could shed light on their potential failure or success or their diffusion a long time and across countries, including the subnational level. Finally, further research might test quantitatively the contributions of citizens' involvement in terms of making informed constitutions. For instance, a text analysis of citizens' contributions would gauge the real impact of those contributions at different stages of the constitution-making and the final stage.

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